

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.: 05-11745RWZ

BARBARA DEIGHTON HAUPT, Trustee)
of BD REALTY TRUST,)
Plaintiff)
v.)
THE TOWN OF WAREHAM acting by)
and through the BOARD OF)
SELECTMEN OF THE TOWN OF)
WAREHAM, and the BOARD OF)
SELECTMEN OF THE TOWN OF)
WAREHAM,)
Defendants)

PLAINTIFF'S PROPOSED SUPPLEMENTAL JURY INSTRUCTIONS

Plaintiff, Barbara Deighton Haupt, Trustee of BD Realty Trust, hereby submits her supplemental proposed jury instructions for trial as follows.

1. A party offering a sales price for a "comparable sale" is entitled to a rebuttable presumption that the price fixed was entered into freely and without compulsion. See Epstein v. Boston Housing Auth., 317 Mass. 297, 300-03 (1944).
2. The nonprofit recreational beach club as shown on the Plaintiff's two (2) concept plans would have fully complied with the Wareham Zoning Bylaw on the date of taking, including but not limited to, the layout of parking at one (1) space per every two (2) memberships, and accessory structures. See Ruling of the Court (Zobel, J.) dated April 9, 2007 allowing Plaintiff's Motion in Limine for Legal Ruling That a Nonprofit Recreational Beach Club Is An Allowed Use Within the R-30 Zoning District Under the Wareham Zoning Bylaw.

Date: April 17, 2007

BARBARA DEIGHTON HAUTP,
Trustee of BD REALTY TRUST,
By her attorneys,

/s/ Kristen M. Ploetz
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 17th day of April, 2007.

/S/ Kristen M. Ploetz
Kristen M. Ploetz, Esq.